

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.8/03

Jabalpur, this the <sup>th</sup>10 day of March, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. Vinod Kumar Shrivastava  
S/o Late Tribhuwannath Shrivastava  
R/o 211/4 CRWS  
Nishatpura, Bhopal.
2. Daryav Singh Vishwakarma  
S/o Shri Pannalal Vishwakarma  
R/o C/o Hardas Vishwakarma  
TRD Colony, Nishatpura  
Bhopal.
3. Prakash Kumar  
S/o Radhelal  
C/o Payal Beati Parlour  
Kalyan Nagar, Bhanpur  
Bhopal.
4. Narendra Singh Raghuwanshi  
Pruthvisingh Raghuwanshi  
KB-I, 107-G, Railway colony  
Habeebganj, Shakti Nagar  
Bhopal.

Applicants

(By advocate Shri S.Paul)

Versus

1. Union of India through  
Its Secretary  
Ministry of Railway  
Railway Board  
New Delhi.
2. General Manager  
Central Railway  
Mumbai C.S.T.  
Mumbai (M.S.)

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3. Chief Personnel Officer (CEO)  
General Manager's Office  
Central Railway, C.S.T.  
Mumbai (MS)
4. Division Railway Manager  
Central railway  
Bhopal Division  
Bhopal.
5. Dulichand Sharma  
Air Conditioner Maintainer  
O/o Senior Divisional Electrical Engineer  
Divisional Railway Manager's Office  
Central Railway  
Bhopal.

Respondents.

(By advocate Shri M.N.Banerjee)

### ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicants have sought the following main reliefs:

- (i) To declare that the inaction of the department in not regularizing the applicants on Group 'C' posts after passing the trade test is bad in law.
- (ii) To direct the respondents to regularize the applicants on Group 'C' posts from the date they passed the trade test with all consequential benefits including seniority.
- (iii) Set aside the orders dated 8.10.2002 (Annexure A23 and 19.11.2002 (Annexure A24).

2. The brief facts of the case are that the applicant No.1 was initially appointed on 23.3.87 as Khalasi. Thereafter he was appointed as Store Chaser Gr.III w.e.f. 1.12.88 to 23.2.94. Then he was promoted as Store Chaser Gr.II w.e.f.24.2.94 in the pay scale of Rs.4000-6000 and he is still working in the said pay scale. The applicant No.1 possessed the qualification of higher secondary. Applicant No.2 was appointed on 3.12.1982 as MRCL Carpenter under Bhopal Division. After the



3. Chief Personnel Officer (CEO)  
General Manager's Office  
Central Railway, C.S.T.  
Mumbai (MS)
4. Division Railway Manager  
Central railway  
Bhopal Division  
Bhopal.
5. Dulichand Sharma  
Air Conditioner Maintainer  
O/o Senior Divisional Electrical Engineer  
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recommendation of IVth Pay Commission, his pay scale was upgraded as Rs.950-1500. Applicant No.3 who is a graduate was initially appointed as Painter w.e.f. 3.8.87 and subsequently transferred to Bhopal Division in 1994. He is still holding the said post in the pay scale of Rs.950-1500 since his initial appointment. Applicant No.4 was initially appointed on 1.8.1981 as MRCL Khalasi . He worked from 1.8.81 to 10.3.84 as Khalasi and from 11.3.84 to 22.9.1986 as semi skilled fitter in the pay scale of Rs.210-290/-. Then w.e.f. 23.9.86 to 10.10.88 he worked as Fitter in the pay scale of Rs.260-400/-(revised pay scale Rs.950-1500). He possessed the qualification of B.A. The applicants are performing the duties of Group 'C' posts in the pay scale of Rs.950-1500/- now revised as Rs.3050-4590. the applicants were required to undergo a trade test for regularisation in Group 'C' post in the year 1998. After undergoing the trade test, they were found to be successful for regularization on the said post. By order dated 29.10.1999 (Annexure A14), direction was sought to be issued for regularization of the applicants. By order dated 13.1.98 (Annexure A16), the DSTE, Bhopal wrote a letter to CPO whereby it was intimated that the applicants had already undergone the relevant trade test and therefore they need to be regularized in the pay scale of Rs.950-1500. In spite of the decision of CPO, the applicants have not been regularized on Group 'C' posts. The applicant and their Union preferred a series of representations but without success. The private respondent who is junior to the applicants was regularized. Similarly placed employees were regularized on Group 'D' posts after they filed various OAs before the Tribunal. All the applicants were served with identical order dated 19.11.2001 (Annexure A22) intimating that they would be regularized in Group 'D' posts. The applicants never gave their consent to be regularized in Group 'D' posts. Their names were incorrectly included in the screening list whereas they have never undergone the screening test for the purpose of regularization on Group 'D' posts. The applicants have amended the OA by adding para 4.13A in which it is mentioned that from the year 1986 till date the posts under 12.5% quota in which the applicants

are entitled be considered are never filled up. The whole action of the respondents is against rules and law. Hence this OA is filed.

3. Heard the learned counsel for the parties. It is argued on behalf of the applicant that despite passing the requisite trade test, the applicants are still holding the post on adhoc basis. The applicants have legal rights to enjoy the fruits of their selection in the trade test and accordingly entitled to be regularized in Group 'C' post . Our attention is drawn towards a letter dated 29.10.99 (Annexure A14) issued by DSTE © Bhopal. It is regarding absorption of S&T Deptt. MRCLs Artisans working in S&T© BPL in Group 'C' – initially borne in the geographical jurisdiction of Bhopal Division of Central Railway. This letter is addressed to CPO (S&T) CR/CSTM in which Mr.Uppal has requested to kindly look into the matter personally and arrange to issue necessary directive to DRM, Bhopal for regularization of applicants according to the procedure adopted by Mumbai and Bhusawal Division of Central Railway. After a lapse of 11 months, the MRCL artisans working in the unit could not be regularized in 12 ½% departmental promotion quota/25% RRB quota against work charged post vide letter dated 7.10.99. The learned counsel has also drawn our attention to Annexure A15 letter dated 7.7.98; Annexure A16 letter dated 13.1.98; Annexure A17 letter dated 20.2.98 and Annexure A18 letter dated 15.6.99 issued by DSTE © Bhopal. He has also drawn our attention to Annexure R9. In its para 4 sub para (ii) it is mentioned that "12 ½% by Artisan Casual Labour engaged in work charged establishments for long period provided they have passed requisite test (unskilled not to be considered)." Thus it is clear that the applicants were considered for Group 'C' posts in the pay scale of Rs.950-1500 (Revised Rs.3050-4590). Nine number of Group 'C' posts were also created. Thus the applicants were very much eligible and because of availability of posts they were placed against the Group 'C' posts . The applicants possessed the requisite qualification and eligibility and hence the respondents should have regularized the applicants under the quota as per Annexure A9. Our attention is also drawn towards



Annexure R10 in which it is mentioned that the contention of the applicants is denied which is not legal and it is apparently against rules. Further the learned counsel for the applicants has shown a letter dated October 7, 1996 marked as Annexure RJ1 which is written by CPO, addressed to DRM etc. regarding filling up of vacancies of skilled artisan from serving M.R.Artisans staff in S&T Dept. This letter is issued in favour of the applicant. Our attention is drawn to 200 (2) SC SLJ 188 Rudra Kumar Sain & others Vs.UOI and others. In this case, the Hon'ble Supreme Court held that if a person has been promoted and he is having all eligibilities, his promotion cannot be treated as adhoc after considerable long time. Hence there is no justification in not absorbing /regularizing the applicants on Group 'C' posts. The applicants are entitled for the reliefs claimed.

4. In reply, the learned counsel for the respondents argued that all the applicants were appointed as Casual Labour and they were promoted on adhoc basis but their lien was maintained by Divisional Office and they were regularized on Group 'D' posts on 0.4.1989 and 26.12.1997. But they did not join the post. They were asked to join vide letter dated 19.11.2001 which are marked as Annexures R-5 to R-8. They were engaged as Casual Labour in Railway Electrification Project without regularization in Group 'D' post. This action was confirmed by CAT, Mumbai in OA No.1116/96 and OA No.385/95. The applicants are neither possessing qualification of Act Apprentices nor ITI pass. They are not skilled MRCL hence they cannot be considered against 12 ½% quota meant for artisan casual labour. As the applicants have already been regularized on Group 'D' post which they have not joined, the question of regularization in Group 'C' post does not arise. Private respondent No.5 was engaged as a casual Khalasi in RE/BPL on 22.2.87 in Group 'D' and he was given temporary status as Khalasi. The ruling cited on behalf of the applicants is not applicable in the present case. The action of the respondents is perfectly justified. Hence the OA deserves to be dismissed.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the applicants were promoted on adhoc basis but their lien was maintained by Divisional Office and they were regularized on Group 'D' posts on 10.4.89. and 26.12.97 but they did not join the post. They were engaged as casual labour in Railway Electrification Project. Without regularization on Group 'D' post, they cannot be regularized on Group 'C' posts. We have perused the judgment of the Mumbai Bench of the CAT, passed in OA 385/95, decided on 10<sup>th</sup> April 2001 – Ramachandra Gummana Vs. The General Manager, Central Railway, Mumbai, in which it is held that casual labour has to be regularized in a Group 'D' post before regularizing in Group 'C' post, however, long a persons might have worked in Group 'C' post. The Tribunal had relied on the ruling in the case of UOI Vs. Motilal & Ors reported in 1996 SCC (L&S) 613. We have also perused another judgment of the Mumbai Bench of the CAT passed in OA No.1165/96 decided on 17<sup>th</sup> April 2002 in which the judgment of CAT (Full Bench), Jaipur is also cited.

6. After considering all the facts and circumstances of the case, we are of the considered opinion that the applicants are not entitled for the reliefs claimed. Hence they are not entitled for regularization in Group 'C' posts. However, the pay which they have been drawing in Group 'C' posts will be protected.

7. With the above observations, the OA is disposed of. No costs.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....  
पलिलिपि अवो दित:-

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- (2) आवेदक श्री/श्रीमती/पु.....काउंसिल
- (3) प्रत्यक्षी श्री/श्रीमती/पु.....काउंसिल
- (4) वायपाल, पं.काउंसिल

सूचना एवं आवश्यक कार्यवाही

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